

ASSEMBLY BILL

No. 1543

**Introduced by Assembly Member Brough
(Principal coauthor: Assembly Member Hadley)
(Coauthors: Assembly Members Harper and O'Donnell)
(Coauthor: Senator Bates)**

May 20, 2015

An act to amend Section 597 of the Penal Code, relating to animals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1543, as introduced, Brough. Animals: abuse.

Existing law prohibits, subject to exceptions, specified acts of animal abuse including, among others, the malicious and intentional maiming, mutilation, torture, or wounding of a living animal. Under existing law, a violation of those provisions is punishable as a felony by imprisonment in a county jail for 16 months, or 2 or 3 years, or by a fine of not more than \$20,000, or by both that fine and imprisonment, or alternatively, as a misdemeanor by imprisonment in a county jail for not more than one year, or by a fine of not more than \$20,000, or by both that fine and imprisonment.

This bill would require a person who violates the animal abuse prohibitions described above to be punished by a fine of not more than \$5,000 for each violation, in addition to the fines described above. The bill would require those additional fines to be deposited into the Victims of Animal Abuse Fund, which would be established by the bill. The bill would require the Veterinary Medical Board to administer the fund, and would continuously appropriate all money deposited in the fund to

the board for the bill’s purposes. The bill would generally require the board to use the money in the fund to compensate the owner or caretaker of an animal that requires medical care, rehabilitation, or recovery as a result of a violation of the animal abuse prohibitions described above for the costs incurred by the owner or caretaker for the animal’s medical care, rehabilitation, or recovery. The bill would also require, in addition to any other penalty provided by law, a person who violates the animal abuse prohibitions described above in a rehabilitative facility for animals to pay for and successfully complete an appropriate counseling course, as determined by the court, designed to evaluate and treat behavior or conduct disorders. The bill would define “rehabilitative facility for animals” for these purposes as a facility at which medical care or rehabilitative services are provided to animals, including, but not limited to, an animal sanctuary, animal shelter, or aquarium. By increasing the penalties for existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597 of the Penal Code is amended to
 2 read:
 3 597. (a) Except as provided in subdivision (c) of this section
 4 or Section 599c, ~~every~~ a person who maliciously and intentionally
 5 maims, mutilates, tortures, or wounds a living animal, or
 6 maliciously and intentionally kills an animal, is guilty of a crime
 7 punishable pursuant to subdivision (d).
 8 (b) Except as otherwise provided in subdivision (a) or (c), ~~every~~
 9 a person who overdrives, overloads, drives when overloaded,
 10 overworks, tortures, torments, deprives of necessary sustenance,
 11 drink, or shelter, cruelly beats, mutilates, or cruelly kills ~~any~~ an
 12 animal, or causes or procures ~~any~~ an animal to be so overdriven,

1 overloaded, driven when overloaded, overworked, tortured,
2 tormented, deprived of necessary sustenance, drink, shelter, or to
3 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
4 the charge or custody of ~~any~~ *an* animal, either as *an* owner or
5 otherwise, subjects ~~any~~ *an* animal to needless suffering, or inflicts
6 unnecessary cruelty upon the animal, or in any manner abuses ~~any~~
7 *an* animal, or fails to provide the animal with proper food, drink,
8 or shelter or protection from the weather, or who drives, rides, or
9 otherwise uses the animal when unfit for labor, is, for each offense,
10 guilty of a crime punishable pursuant to subdivision (d).

11 (c) ~~Every~~ A person who maliciously and intentionally maims,
12 mutilates, or tortures ~~any~~ *a* mammal, bird, reptile, amphibian, or
13 fish, as described in subdivision (e), is guilty of a crime punishable
14 pursuant to subdivision (d).

15 (d) (1) A violation of subdivision (a), (b), or (c) is punishable
16 as a felony by imprisonment pursuant to subdivision (h) of Section
17 1170, or by a fine of not more than twenty thousand dollars
18 (\$20,000), or by both that fine and imprisonment, or alternatively,
19 as a misdemeanor by imprisonment in a county jail for not more
20 than one year, or by a fine of not more than twenty thousand dollars
21 (\$20,000), or by both that fine and imprisonment.

22 (2) (A) *A person who violates subdivision (a), (b), or (c) shall,*
23 *in addition to the fines imposed pursuant to paragraph (1), be*
24 *punished by a fine of not more than five thousand dollars (\$5,000)*
25 *for each violation.*

26 (B) *The fines required by subparagraph (A) shall be deposited*
27 *into the Victims of Animal Abuse Fund, which is hereby established*
28 *in the State Treasury. For purposes of this paragraph, "fund"*
29 *means the Victims of Animal Abuse Fund.*

30 (C) *The Veterinary Medical Board shall administer the fund*
31 *consistent with this paragraph. Notwithstanding Section 13340 of*
32 *the Government Code, all money deposited in the fund is hereby*
33 *continuously appropriated to the Veterinary Medical Board,*
34 *without regard to fiscal years, for the purposes of this paragraph.*

35 (D) *Except as provided in subparagraph (E), the Veterinary*
36 *Medical Board shall use the money in the fund to compensate the*
37 *owner or caretaker, including a nonprofit organization, of an*
38 *animal that requires medical care, rehabilitation, or recovery as*
39 *a result of a violation of subdivision (a), (b), or (c) for the costs*

1 incurred by the owner or caretaker for the animal’s medical care,
2 rehabilitation, or recovery.

3 (E) (i) If the owner or caretaker of an animal that requires
4 medical care, rehabilitation, or recovery as a result of a violation
5 of subdivision (a), (b), or (c) is the person who violated any of
6 those subdivisions, the owner or caretaker shall not receive money
7 from the fund, and instead, money in the fund may be used to
8 compensate another person, including a nonprofit organization,
9 who incurs costs for the animal’s medical care, rehabilitation, or
10 recovery.

11 (ii) If an animal that requires medical care, rehabilitation, or
12 recovery as a result of a violation of subdivision (a), (b), or (c)
13 has no identifiable owner or caretaker, money in the fund may be
14 used to compensate a person, including a nonprofit organization,
15 who incurs costs for the animal’s medical care, rehabilitation, or
16 recovery.

17 (F) The Veterinary Medical Board may promulgate regulations
18 to implement this paragraph.

19 (3) (A) Except as provided in subdivision (h), a person who
20 violates subdivision (a), (b), or (c) in a rehabilitative facility for
21 animals shall, in addition to any other penalty provided by law,
22 pay for and successfully complete an appropriate counseling
23 course, as determined by the court, designed to evaluate and treat
24 behavior or conduct disorders. If the court finds that a defendant
25 is financially unable to pay for that counseling, the court may
26 develop a sliding fee schedule based upon the defendant’s ability
27 to pay. An indigent defendant may negotiate a deferred payment
28 schedule, but shall pay a nominal fee if the defendant has the ability
29 to pay the nominal fee. If an indigent defendant cannot pay the
30 nominal fee, the fee shall be waived.

31 (B) For purposes of this paragraph, “rehabilitative facility for
32 animals” means a facility at which medical care or rehabilitative
33 services are provided to animals, including, but not limited to,
34 animal sanctuary, animal shelter, or an aquarium.

35 (e) (1) Subdivision (c) applies to any a mammal, bird, reptile,
36 amphibian, or fish which that is a creature described as follows:

37 (H)

38 (A) Endangered species or threatened species as described in
39 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
40 Fish and Game Code.

1 ~~(2)~~
2 (B) Fully protected birds described in Section 3511 of the Fish
3 and Game Code.

4 ~~(3)~~
5 (C) Fully protected mammals described in Chapter 8
6 (commencing with Section 4700) of Part 3 of Division 4 of the
7 Fish and Game Code.

8 ~~(4)~~
9 (D) Fully protected reptiles and amphibians described in Chapter
10 2 (commencing with Section 5050) of Division 5 of the Fish and
11 Game Code.

12 ~~(5)~~
13 (E) Fully protected fish as described in Section 5515 of the Fish
14 and Game Code.

15 (2) This subdivision does not supersede or affect any provisions
16 of law relating to taking of the described species, including, but
17 not limited to, Section 12008 of the Fish and Game Code.

18 (f) For the purposes of subdivision (c), each act of malicious
19 and intentional maiming, mutilating, or torturing a separate
20 specimen of a creature described in subdivision (e) is a separate
21 offense. If ~~any~~ a person is charged with a violation of subdivision
22 (c), the proceedings shall be subject to Section 12157 of the Fish
23 and Game Code.

24 (g) (1) Upon the conviction of a person charged with a violation
25 of this section by causing or permitting an act of cruelty, as defined
26 in Section 599b, all animals lawfully seized and impounded with
27 respect to the violation by a peace officer, officer of a humane
28 society, or officer of a pound or animal regulation department of
29 a public agency shall be adjudged by the court to be forfeited and
30 shall thereupon be awarded to the impounding officer for proper
31 disposition. A person convicted of a violation of this section by
32 causing or permitting an act of cruelty, as defined in Section 599b,
33 shall be liable to the impounding officer for all costs of
34 impoundment from the time of seizure to the time of proper
35 disposition.

36 (2) Mandatory seizure or impoundment shall not apply to
37 animals in properly conducted scientific experiments or
38 investigations performed under the authority of the faculty of a
39 regularly incorporated medical college or university of this state.

1 (h) Notwithstanding any other ~~provision~~ of law, if a defendant
2 is granted probation for a conviction under this section, the court
3 shall order the defendant to pay for, and successfully complete,
4 counseling, as determined by the court, designed to evaluate and
5 treat behavior or conduct disorders. If the court finds that the
6 defendant is financially unable to pay for that counseling, the court
7 may develop a sliding fee schedule based upon the defendant's
8 ability to pay. An indigent defendant may negotiate a deferred
9 payment schedule, but shall pay a nominal fee if the defendant has
10 the ability to pay the nominal fee. County mental health
11 departments or Medi-Cal shall be responsible for the costs of
12 counseling required by this section only for those persons who
13 meet the medical necessity criteria for mental health managed care
14 pursuant to Section 1830.205 of Title 9 of the California Code of
15 Regulations or the targeted population criteria specified in Section
16 5600.3 of the Welfare and Institutions Code. The counseling
17 specified in this subdivision shall be in addition to any other terms
18 and conditions of probation, including any term of imprisonment
19 and any fine. This ~~provision~~ *subdivision* specifies a mandatory
20 additional term of probation and is not to be utilized as an
21 alternative in lieu of imprisonment pursuant to subdivision (h) of
22 Section 1170 or county jail when that sentence is otherwise
23 appropriate. If the court does not order custody as a condition of
24 probation for a conviction under this section, the court shall specify
25 on the court record the reason or reasons for not ordering custody.
26 This subdivision shall not apply to cases involving police dogs or
27 horses as described in Section 600.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 SEC. 3. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 In order to provide victims of animal abuse with restitution for
2 the costs associated with medical care and recovery for animals
3 resulting from that abuse at the earliest possible time, it is necessary
4 for this act to take effect immediately.

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